

Fact Sheet
U.S. Environmental Protection Agency
Region 10



Park Place Building, 13th Floor
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101

**NOTICE OF PROPOSED MODIFICATION OF NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS TO DISCHARGE TO WATERS OF THE
UNITED STATES**

NPDES Permit Number: ID-0026123, City of Toppenish Wastewater Treatment Facility

Public Comment Beginning Date: May 4, 2005

Public Comment Expiration Date: June 3, 2005

Technical Contact: Lindsay Guzzo 206/553-0268
1-800-424-4372 (within Alaska, Idaho, Oregon and Washington)
guzzo.lindsay@epa.gov

EPA Proposes NPDES Permit Modification

EPA proposes to modify a *National Pollutant Discharge Elimination System* (NPDES) Permit for the City of Toppenish, Washington.

This Fact Sheet includes:

- information on public comment, public hearing, and appeal procedures
- detailed technical material supporting the conditions in the permit

Public Comment

EPA will consider all comments before issuing the final permit modifications. Those wishing to comment on the draft permit modification may do so in writing by the expiration date of the public notice. A request for public hearing must state the nature of the issues to be raised as well as the requester's name, address and telephone number. After the public notice expires, and all significant comments have been considered, EPA's regional Director for the Office of Water and Watersheds will make a final decision regarding permit modification.

If no significant comments are received, the tentative conditions in the draft modified permit will become final, and the draft permit modification will become effective upon issuance. If comments are received, EPA will address the comments and issue the draft permit modification. The permit will become effective 30 days after the issuance date, unless an appeal is filed with the Environmental Appeals Board within 30 days.

Documents are Available for Review

The draft NPDES permit modification and related documents can be reviewed or obtained by visiting or contacting EPA's Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday (See address below). The fact sheet and draft permit may also be viewed electronically at www.epa.gov/r10earth/water.htm.

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101

(206) 553-1774 or
1-800-424-4372 (within Alaska, Idaho, Oregon and Washington)

TECHNICAL INFORMATION

1. BACKGROUND

The intent of this proposed modification of the permit is to respond to a request for modification submitted by the City of Toppenish on April 26, 2004. In Toppenish's current NPDES permit ammonia limits were given at 1.23 mg/L for average monthly limits and 2.04 mg/L for daily maximum limits, effective 4 years and 6 months after the effective date of the permit. The permit included an interim limit of 11 mg/L maximum daily limit. Unfortunately, this interim limit was based on old data, which was no longer representative of the facility's effluent. Based on the current data, the City requested that the interim effluent limitation for ammonia be increased to 35 mg/L.

Information was presented that had not been available at the time the permit was being developed. In addition, the permit included a reopener that allowed the permit to be reopened and limits adjusted based on the results of new information. Accordingly, this permit is being modified according to the requirements of 40 CFR § 124.5 for the reasons specified in 40 CFR § 122.62(a)(2) and (a)(7).

2. DESCRIPTION OF THE FACILITY

The City of Toppenish owns and operates a municipal sewage treatment facility that provides secondary treatment and disinfection of wastewater. The facility and receiving water are within the boundaries of the Yakama Indian Reservation. After treatment, the facility discharges the effluent to the Toppenish Drain. The facility design flow is 1.90 million gallons per day (mgd) and has an average daily flow rate of 0.889 mgd. This facility supports a population of 8,946. The plant receives domestic wastewater from residential and commercial sources. There is no industrial input to the plant. The collection system has no combined storm water with sanitary wastewater sewers.

3. RECEIVING WATER

A. Outfall location

The treated effluent from the City of Toppenish wastewater treatment facility is discharged to the Toppenish Drain from the outfall 001 located at:
Latitude 46 deg. 22 min. 67 sec
Longitude 120 deg. 13 min. 24 sec.

B. Description of Receiving Water and Receiving Water Flow

The Toppenish Drain is within the Wapato Irrigation Project and eventually empties into the Yakima River. The volume of flow changes in the drain according to whether it is the wet season or the dry season.

The data base available for stream flow at the facility is not large enough to calculate a statistically significant 7Q10 flow. The best available data base is the recent monitoring done by the permittee. Instead of the 7Q10 value, the smallest measurement of the flow values from the data collected by the permittee was used to represent the conservative low-flow of 1.26 million gallons per day (MGD).

There are no issues of concern with a total maximum daily load review (TMDL) in the drain. The drain is not part of the Yakima River TMDL, so the City of Toppenish has no waste load allocation (WLA) from the TMDL. The drain is on tribal land so it was not included, and the discharge is considered diluted before it reaches the river.

C. Water Quality Standards

The facility and receiving water are within the boundaries of the Yakama Indian Reservation. The Washington State water quality standards only apply to waters of the State. The State does not have legal authority over tribal waters.

The Yakama Nation Department of Natural Resources Environmental Management Program is currently working to establish regulations for point sources that discharge on the Yakama Indian Reservation and water quality standards for waters on the Reservation. The Yakama Nation has not yet adopted standards, therefore, there are no standards that apply to this portion of the Toppenish Drain. Furthermore, because the Yakama Nation does not have delegated NPDES permit authority, EPA is the permitting authority on the Yakama Indian Reservation.

In situations where facilities are discharging into Indian Reservation waters, and the Indian Nation has not yet adopted water quality standards for that water body, it has been EPA's practice to apply adjacent or downstream standards to the reservation waters for the purpose of developing permit limitations and conditions. Federal regulations 40 CFR 131.10(b) and 40 CFR 122.4(d) give EPA the authority to protect the waters downstream of the facility. In this permit, the State of Washington water quality standards, which are applicable to waters adjacent to and downstream of the Reservation, were applied to the Toppenish Drain for the purpose of developing this permit and this modification.

The water quality standards are composed of use classifications, numeric and/or narrative water quality criteria, and an anti-degradation policy. The use classification system designates the beneficial uses that each water body is expected to achieve (domestic water supply, fish and shellfish, recreation, etc.) The numeric and/or narrative water quality criteria are the criteria deemed necessary to support the beneficial use classification of each water body. The anti-degradation policy is the approach that is used to maintain and protect existing

water quality when the existing quality is better than that required to meet the standard and to prevent water quality from being degraded below the standard when existing quality just meets the standard.

In the State of Washington, water bodies are classified into one of five different classes. Each classification protects the water for specific uses and for specific water quality criteria. Classifications are found in the Water Quality Standards or Surface Waters of the State of Washington, WAC 173-201A-130, Specific Classifications - Freshwater. The Toppenish Drain is not directly classified in the standards, however, the regulations specify that all unclassified surface waters within the state shall be classified as Class A (WAC 173-201A-120 (6)). Conversations prior to 1996, with representatives from the State of Washington Department of Ecology and the Yakama Nation Department of Natural Resources Environmental Management Program, confirmed that the Toppenish Drain is classified as Class A (see also, Ecology Report October 1991, "Toppenish Sewage Treatment Plant Class II Inspection"). Class A designation under the State of Washington Water Quality Standards protects this water body for the following uses: water supply (domestic, industrial, agricultural), stock watering, fish and shellfish, wildlife habitat, recreation, and commerce and navigation.

5. SPECIFIC PERMIT CONDITIONS

This modification of the existing permit NPDES permit is based on new information developed as a result of additional monitoring conducted by the permittee. Additional data consisted of effluent concentrations of ammonia. Based on this new data, new interim limits were developed for the discharge from the City of Toppenish WWTF. Interim limits are temporary limits, which are less stringent than the final limits, that allow facilities time to upgrade their systems without the threat of violations. Interim limits are suppose to be achievable using the technology currently available at the facility until the time the new equipment or process is installed at which point final permit limits are effective. Interim limits should be calculated using the most recent data for the facility, however, the interim limits used for Toppenish's 2003 permit were based on old and unrepresentative data. The final permit limits for ammonia (1.23 mg/L for an average monthly limit and 2.04 for a maximum daily limit) are not going to be modified in any way by this permit modification. The City submitted monthly effluent data for a 2 ½ year period. Using the new data, the 95th percentile was calculated. Given the amount of data collected, EPA determined that the 95th percentile of the data would establish a reasonable interim effluent limitation value. This percentile has been used in other EPA permits, and at least binds the discharger to existing effluent quality. EPA concluded that the interim limit for ammonia should be a daily maximum of 21.6 mg/L. Appendix A describes the evaluation in detail.

The 1987 amendments to the Clean Water Act established a general prohibition against backsliding from water quality-based permit limits. In this situation backsliding is allowed based on the new information exception under section 402(o)(2) of the Clean

Water Act. It should be noted that this change only covers the interim limit, the final limit is not changing (1.23 mg/L for an average monthly limit and 2.04 for a maximum daily limit).

6. REMOVALS and ADDITIONS

A. Removal of Language

- i. Section I.B.2., ammonia interim limits: page 8, remove interim effluent limit for ammonia.

B. Additions

- i. Section I.B.2.: page 8, add the new ammonia interim effluent limit of 21.6 mg/L.

7. OTHER LEGAL REQUIREMENTS

A. Water Quality Standards Certification

Since the discharge is from a facility located within the boundaries of the Yakama Indian Reservation, the provisions of Section 401 of the Clean Water Act requiring state certification of the permit do not apply.

B. Endangered Species Act

Sections 7(a) and (c) of the Endangered Species Act require federal agencies to request a consultation with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) regarding potential effects an action may have on species listed as threatened or endangered. EPA requested a list of threatened and endangered species in the vicinity of the Toppenish Wastewater Treatment facility from NMFS and USFWS for the original permit. At that time the website for NMFS indicated that there were no threatened or endangered species in the vicinity of the facility that were listed or proposed for listing under its jurisdiction of these agencies. A letter from the USFWS dated May 23, 2002, indicated that the bald eagle (*Haliaeetus leucocephalis*), Bull trout (*Salvelinus confluentus*), and Ute ladies'-tresses (*Spiranthes diluvialis*), all of which are listed as threatened, may occur in the vicinity of the facility. No other species were listed or proposed for listing as threatened or endangered under their jurisdiction, in the vicinity of the facility. EPA determined, at the time of permit issuance, that the discharge for the Toppenish Wastewater Treatment Plant would have no affect on the listed species. Since it has been such a short time between the issuance of this permit and the modification date, and since no species have been added to the endangered species list in the area, EPA keeps it's

2005 Modification

NPDES Permit No.: WA0026123

determination that the Toppenish Wastewater Treatment Plant will have no affect on the listed species.

2005 Modification

NPDES Permit No.: WA0026123

APPENDIX A

2005 Modification

NPDES Permit No.: WA0026123

Year	Maximum Daily Value per Month
2002	10.1
	11.5
	14.9
	12.5
	6.2
	6.5
	6.9
	13.1
	15
	10
	9.3
	13.4
2003	18.5
	24.6
	26.2
	20
	15.2
	8.6
	9.6
	7.4
	9.5
	9.5
2004	10.1
	13.2
	15.2
	14
	20
	13.9
	13.6
	12.9
	9.2
	6.8
	8.9
	8.4

21.6 95th Percentile

The 95th percentile represents the value at which 95% of the data set is less than that value and 5% are greater than that value. The 95th percentile is used for maximum interim limits so the facility can continue to meet their limits (therefore comply with the permit) as long as the facility is operated well, until the system is upgraded and the facility has to comply with the final limits in the permit.